THE RECORD
OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK

EDITORIAL BOARD

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Association Activities

THE ASSOCIATION'S annual photography exhibit, sponsored by the Committee on Art, Edmund T. Delaney, Chairman, will open on December 2. The purpose of the exhibit is to express and stimulate the interest in photography of the membership, and its success depends, in part, on wide representation. All members who have taken photographs are urged to submit pictures. Photographs for the exhibit should be delivered to the House of the Association no later than November 20.

AT THE Stated Meeting on October 21 the following resolution, presented by Bethuel M. Webster, Chairman of the Special Committee to Cooperate with the International Commission of Jurists, was unanimously adopted:

WHEREAS, on July 3, 1958, the President of The Association of the Bar of the City of New York, informed that the United Nations was unable to supply information concerning the trials of the late Imre Nagy and Pal Maleter, wrote to the Minister of Justice of Hungary requesting that copies of the records of the

trials be made available for study by committees of the Association, and the Minister of Justice has not replied to this request; and

WHEREAS, on August 29, 1958, at its Annual Meeting in Los Angeles, the American Bar Association, noting that the announcement by the Government of the Peoples' Republic of Hungary on July 17, 1958 of the execution of former Premier Imre Nagy, former Minister of Defense Pal Meleter, and a number of associates had aroused wide and profound interest among the lawyers of the United States in the circumstances and procedures of this case, adopted a resolution condemning these political executions as being violative of the Rule of Law as recognized by civilized countries; and

WHEREAS, this Association is now informed

(1) that since March 1958 the organization of the Bar of Hungary has been governed by an Order of the Peoples' Republic of Hungary under which lawyers may practice only as members of "collectives," admission to which is determined on political grounds by committees made up mostly of non-lawyer members of the Communist Party; and

(2) that, in August 1958, 800 of the 1400 Budapest lawyers and 600 of the 1600 lawyers elsewhere in Hungary were disbarred and required to close their offices and turn over their files—this without any charge or hearing and without right of effective appeal; and

(3) that many Hungarian lawyers, thus deprived of the right to practice their profession and to earn a livelihood, face starvation and the loss of their homes and are being deported to villages for manual labor;

NOW THEREFORE, BE IT

RESOLVED, that The Association of the Bar of the City of New York condemns the dissolution of the independent Bar of Hungary, with the consequent destruction of the Rule of Law in this once proud and highly civilized country, and expresses its sympathy to the lawyers of Hungary

who have thus been deprived of the right to earn a livelihood; and

FURTHER RESOLVED, that this Resolution be published and that copies be sent to the President of the American Bar Association, to the Presidents of the Bar Associations of all of the forty-nine States of the United States, and to the United Nations, to the end that lawyers throughout the United States and the world will be informed of the purge of Hungarian lawyers as a step in furtherance of the Communist program demonstrating again the contempt of the present Government of Hungary for the profession of law, for the courts, and indeed for the Rule of Law itself.

The following resolutions were adopted with respect to candidates for judicial office:

Court of Appeals

RESOLVED, that Marvin R. Dye is outstandingly qualified for Judge of the Court of Appeals.

Supreme Court, First Judicial District

RESOLVED, that James B. M. McNally is outstandingly qualified to hold the office of Justice of the Supreme Court.

RESOLVED, that George M. Carney, Thomas C. Chimera, James G. Donovan, Edward J. Fontana, Irving L. Levey and Charles A. Loreto are qualified for the office of Justice of the Supreme Court.

No action was taken with respect to John J. dePasquale because of his unexplained failure to appear before the Committee on the Judiciary.

City Court, New York and Bronx Counties

RESOLVED, that Margaret Mary J. Mangan, Barnett Davis and Hyman Korn are qualified to hold the office of Justice of the City Court.

Municipal Court, Bronx, Brooklyn and Manhattan

RESOLVED, that Francis T. Murphy, Jr., Franklin W. Morton, Jr., Frank S. Samansky, Joseph J. Cella, Patrick J. Picariello, Frank J. Blangiardo, Joseph F. Czechlewski, Max M. Meltzer, Herbert J. Wallenstein, Bernard Weiss, Charles Gold and Louis Otten are qualified to hold the office of Justice of the Municipal Court.

For failure to appear or to furnish any information, George F. Murphy was found not qualified.

The action by the Stated Meeting followed, with one exception, the recommendations of the Committee on the Judiciary, F. W. H. Adams, Chairman; the Committee on the City Court, Mitchell Salem Fisher, Chairman; and the Committee on the Municipal Court, Benedict Ginsberg, Chairman. The exception was in the case of Judge Marvin R. Dye of the Court of Appeals. The Committee on the Judiciary had recommended him as qualified. The meeting approved him as outstandingly qualified.

Arthur N. Seiff, former Chairman of the Committee on Medical Jurisprudence, presented a Report on Amendment to Statute of Limitations Relating to Malpractice Suits. After discussion of the report the following resolution was adopted:

RESOLVED, that The Association of the Bar of the City of New York supports the amendment of section 50, subdivision 1, of the Civil Practice Act, so that as amended such subdivision shall read as follows (with the introductory language thereof):

"The following actions must be commenced within two years after the cause of action has accrued:

"1. An action to recover damages for assault, battery, false imprisonment, malicious prosecution or malpractice. *A cause of action for malpractice is not deemed to have accrued until the discovery by the plaintiff or the person under whom he claims of the facts constituting the malpractice, but in no event may such action be commenced more than four years after the commission of the practice.*" (The matter in italics is new).

Interim reports were presented by Lester Nelson for the Com-

mittee on Art and Mendes Hershman, Chairman of the Committee on Real Property Law.

AT THE first meeting of the Section on Wills, Trusts and Estates, Joel Irving Friedman, Chairman, Logan Fulrath discussed "The Preparation of Wills," and Edward R. Finch, Jr. reviewed recent decisions.

JUSTICE JOHN M. HARLAN delivered the Eighteenth Annual Benjamin N. Cardozo Lecture on October 28. Justice Harlan's subject was "Some Comments on the Statutory Certiorari Jurisdiction and Jurisdictional Statement Practice of the Supreme Court of the United States."

THE COMMITTEE on Labor and Social Security Legislation, Emanuel Dannett, Chairman, will work through the following Subcommittees: Corruption in union-management relations; organizational picketing; remedies for breach of collective bargaining agreements; amendments to the New York State Labor Act; welfare and pension plans; conduct of congressional committees investigating union-management relationship; and social security legislation.

THE PRACTISING Law Institute celebrated its 25th anniversary with a reception at the House of the Association on October 15. Brief remarks were made by former Governor Thomas E. Dewey and Allen W. Dulles.

AMONG MATTERS under study by the Committee on Real Property Law, Mendes Hershman, Chairman, are proposed legislation which would eliminate the archaic distinction between conditional limitations and conditions subsequent in leases; legislation to permit the bondless mortgage; legislation to constitute holdover tenancies as month to month instead of leases for one year;

changes and consolidation of the Urban Redevelopment Laws; and condemnation procedures.

THE HOUSE COMMITTEE has announced the following revised schedule of charges for room rentals and custodial fees:

Rental—5th and 6th Floor—Bar Building

Room 510	$7.50 per period
Room 511	$7.50 per period
Room 512	$7.50 per period
Room 602	$15.00 per period ($20.00 custodial fee)
Byrne Room	$35.00 per period ($35.00 custodial fee)

Custodial Fees—1st and 2nd Floor—House of the Association

Cromwell Room	$ 15.00
Room 10	$ 15.00
Room B	$ 10.00
Meeting Hall	$150.00
Carter Room	$ 15.00
Evarts Room	$ 15.00
Supper Room	$ 15.00

The charge for the use of the public address system will be $50.00.

THE NEW YORK CITY regional rounds of the National Moot Court Competition, sponsored by the Young Lawyers Committee, Robert Coulson, Chairman, will be held November 13 and 14 at the House of the Association. The participating schools are Brooklyn Law School, Columbia University School of Law, St. John's University School of Law, Fordham University School of Law, New York University School of Law and New York Law School. The case to be argued this year, *United States* v. *Akkro Corp.*, concerns an indictment against the accused for violating the Federal Anti-Corruption Act by expending corporate funds in connection with a Senatorial campaign. The Record on Appeal raises questions of current interest relating to the participation of corporations in political action.

The winner of the New York City regional rounds will be awarded possession of the Whitney North Seymour Award, a silver bowl. The award was won last year by Columbia University School of Law. The winning team will be eligible to enter the final rounds of the National Moot Court Competition to be held at the House of the Association in December. All of the arguments are open to the public and law students are particularly urged to attend.

THE LEAGUE of Women Voters will hold an Institute on Court Reorganization at the House of the Association, Tuesday, November 18. Four panel discussions will be held from 10:30 A.M. to 12:30 P.M. Topics to be discussed are "Why New York Needs a Modern Court System"; "A Good State Court System and Its Administration"; "The Legislature and Controversial Issues"; and "Politics and Court Reorganization." At the afternoon session, beginning at 2:00 o'clock, Professor Shelden D. Elliott will discuss "The Proposal for the Reorganization of the New York Courts" prepared by the Institute of Judicial Administration. Mrs. George J. Ames will discuss "The Future of Court Reorganization." There is a registration fee of $1.00 for the Institute.

THE SEVENTH Conference of the International Bar Association was held in Cologne, Germany, July 21–25, 1958, at the invitation of the Deutscher Anwaltverein (the German Bar Association) and the Kölner Anwaltverein (the Cologne Bar Association). Member Organizations comprising the national bar associations of a large part of the world sent delegations to the Conference—although lack of transportation facilities regrettably prevented the attendance of registered conferees from much of the Mediterranean area. Thirty-six countries were represented by 520 members of the legal profession, accompanied by 191 guests.

At the Opening Session of the Conference held in the magnificent Gürzenich, conferees were welcomed to Germany by Federal Minister of Justice Fritz Schäffer. The same evening the Mayor of Cologne, Oberbürgermeister Theo Burauen, extended

the city's greetings at a reception at the Wallraf-Richartz-Museum.

On Friday afternoon Officers and retiring Councillors were invited to Bonn to meet Chancellor Adenauer. There the Chancellor recounted his early years as a practicing lawyer in Cologne and expressed his firm faith in the rule of law as the only possible basis for civilization and for peace. He deplored the decline in respect for law and expressed his hope that the work of the Cologne Conference would bear fruit and that the IBA would continue its work and further true international understanding in this age of grave divisions.

Official delegates from thirty-three Member Organizations attended the General Meeting in the Great Hall of the Gürzenich on Wednesday, July 23. The General Meeting approved the proposed Constitutional Amendments, to provide for one member of the Council from each Member Organization, and to permit the variation from country to country of the Patron's or Subscriber's contribution to the Association.

The General Meeting also approved in principle the Report of the Joint Commission of the International Bar Association and the Union Internationale des Avocats, and authorized the IBA representatives to continue the study of a possible fusion of the two organizations. The Report of the Legal Aid Committee was referred to the Council of the IBA to implement the establishment of an International Legal Aid Association under the auspices of the IBA. Funds for an initial period of two years have been obtained by the National Legal Aid Association of the U.S.A. and by the Committee on Legal Aid of the American Bar Association. The new organization will have a European headquarters under the direction of Sir Sydney Littlewood of London and Orison S. Marden of New York as Co-Chairmen of the Committee.

The following Officers were re-elected:

Chairman	Loyd Wright (USA)
Secretary General	Gerald J. McMahon (USA)
Treasurer	Sir Thomas Lund (England)

The Calendar of the Association For November and December

(as of October 29, 1958)

November 3 Dinner Meeting of Committee on Domestic Relations Court

November 5 Dinner Meeting of Executive Committee
Meeting of Section on Wills, Trusts and Estates

November 6 Dinner Meeting of Committee on Professional Ethics
Meeting of Joint Medical-Legal Committee

November 10 Dinner Meeting of Committee on Medical Jurisprudence
Dinner Meeting Special Committee on the Improvement of Family Law

November 12 Dinner Meeting of Committee on the Bill of Rights
Dinner Meeting of Committee on Foreign Law

November 13 New York City Regional Rounds of Moot Court Competition. Sponsorship Young Lawyers Committee

November 14 New York City Regional Rounds of Moot Court Competition. Sponsorship Young Lawyers Committee

November 17 Meeting of Section on Corporate Law Departments
Meeting of Library Committee
Dinner Meeting of Special Committee to Cooperate with the Family Part of the Supreme Court

November 19 Meeting of Committee on Admissions
Meeting of Section on Litigation
Dinner Meeting of Committee on Trade Marks and Unfair Competition
Dinner Meeting of Committee on Legal Aid
Dinner Meeting of Committee on International Law

November 20 Meeting of Committee on Arbitration
Dinner Meeting of Committee on Courts of Superior Jurisdiction
Dinner Meeting of Committee on Aeronautics

November 24 Meeting of Section on Jurisprudence and Comparative Law
Dinner Meeting of Committee on Labor and Social Security Legislation

December 1 Dinner Meeting of Committee on Professional Ethics

December 2 *Opening of Photographic Show*, 4:30 P.M.

December 3 Dinner Meeting of Executive Committee
Meeting of Section on Wills, Trusts and Estates

December 8 Meeting of Section on Labor Law
Meeting of Committee on Domestic Relations Court

December 9 *Stated Meeting of the Association*, 5:00 P.M., *Buffet Supper*, 7:15 P.M.

December 10 Meeting of Section on Corporate Law Departments
Meeting of Committee on Foreign Law
Dinner Meeting of Committee on the Bill of Rights
Dinner Meeting of Committee on International Law
Dinner Meeting of Committee on Courts of Superior Jurisdiction

December 11 Meeting of Section on Trade Regulation
Meeting of Committee on Arbitration
Dinner Meeting of Committee on Aeronautics

December 15 Meeting of Library Committee

December 16 Meeting of Section on Banking, Corporation and Business Law

December 17 Meeting of Committee on Admissions

December 22 Meeting of Special Committee to Cooperate with the Family Part of the Supreme Court

The Functions and Responsibilities of an Advocate

By The Right Honourable
Sir Hartley William Shawcross

THE SEVENTEENTH ANNUAL BENJAMIN N. CARDOZO LECTURE
DELIVERED BEFORE THE ASSOCIATION OF THE BAR
OF THE CITY OF NEW YORK ON MAY 28, 1958

It is a very great honour indeed to have been invited to deliver a lecture in the series named after the great American Judge whose work and thought had such profound influence on the law not only in this country, but wherever the common law is studied and applied—and I would add wherever interest is taken in legal philosophy and jurisprudence.

But having accepted the invitation, I must express to you my regret and apology that I selected as the subject of my talk one on which everything which could possibly be said—and a great deal more besides—has already been said and repeated in so many different tongues and with so many varying conclusions, from the Athenians to the present day, that any further observations upon the matter are inevitably either plagiaristic or redundant. And very probably both. Disraeli said that the legal mind "chiefly consists in illustrating the obvious, explaining the self evident, and expatiating on the common place." I have never regarded myself as possessing a legal mind, but on contemplating my present discourse it seems clear to me that Disraeli's definition applies.

Let me then explain to you—by way of excuse—how I came to think, rather on the spur of the moment, that I might also practice, if only on the nursery slopes, of this well tried ground which has been traversed so often and by such great authorities. I had been considering the material which has been obtained by the International Commission of Jurists in a study which they are presently making of the operation of the rule of law in the differ-

ent countries of the world. And I was struck by the different views taken, not only as one might expect of a procedural kind, but as to the basic philosophy underlying the practice of the law in other countries. The contrast is, of course, the most marked when one compares the function, status and duties of the advocate in the Communist—or, I do not doubt, in the Fascist countries—with our own Anglo-Saxon conception. There are, indeed, notable differences in countries which have inherited their law from the civilians but which otherwise share much the same political and social ideology as ourselves. But these are largely due to the accidents of history or of procedural practice and hardly go to fundamental questions of philosophy.

Nor, on the other hand, when one examines the principles which govern the position of the lawyer in the common law countries, and compares them with those in the Communist world can one, I think, start from any a priori assumption that our view is right and theirs necessarily wrong. For one is struck by the fact that the criticisms which the Communists direct today against the lawyers of what they call the capitalist world, are not very different from those which have been directed against lawyers as a class from the days of the Athenians onwards and which we continue to hear expressed in our own countries today. Take for instance what I found written by a distinguished Chinese lawyer in a Shanghai legal periodical for last February:

> ". . . As all of us know, in the capitalist society and in the old society the property holders, relying on their influence and wealth and behaving lawlessly wherever they went, deceived and suppressed the masses. When they committed a criminal offence, they could engage their advocates—lawyers—whom they fed to defend them and wash off their guilt. The lawyers in order to please their masters and obtain money went against their conscience confusing right and wrong and fabricating facts, so that criminals could go away free without any punishment."

Strip this of the verbiage. Take away the diatribe about the

property owners which are a familiar feature of Communist propaganda to their simple followers. Disregard the vulgar abuse. The sting of the Communist attack is that in order to obtain money, we confuse right and wrong and aid criminals to escape justice. I hope that it is an unjustified criticism, but we cannot dismiss it simply as communist propaganda. It is no different from what Dean Swift, the English Satirist said in Gullivers Travels after having, it is true, himself lost a law-suit:

> "Lawyers are a society of men bred from their youth in the art of proving by words multiplied for the purpose that white is black and black is white according as they are paid."

I mentioned Disraeli. Take the famous letter which he wrote to Charles Austin and to which Cardozo refers in one of his papers. Austin had accused Disraeli of bribery at an election.

> "I am informed," wrote Disraeli, "that it is quite useless and even unreasonable in me to expect any satisfaction from Mr. Austin for these impertinent calumnies, because Mr. Austin is a member of an honorable profession the first principle of whose practice appears to be that they may say anything provided they are paid for it. The principle of circulating falsehoods with impunity is delicately described as doing your duty towards your client which appears to be a very different process from doing your duty towards your neighbour."

1800 years earlier, Martial said that a lawyer is "a man who hires out his words and his anger."

All this cannot be written off as mere Communist abuse. It is part of the ethical indictment which has been laid against lawyers throughout the ages. We have hitherto withstood it. What is new is that now perhaps half the population of the world, no doubt illiterate and ill informed, but powerful enough, believe these criticisms to be true, have abolished independent legal practice and established in its place cooperatives or colleges of lawyers

whose primary function is, I quote again from the Chinese lawyer "to safeguard the socialist judicial system: to promote the progress of socialist construction and transformation in accordance with laws and facts." In the textbooks of all the Communist countries you will find the lawyers duty described as being to uphold, not justice, not legality, but *socialist* legality.

The adventure of our life is being carried out in an era when all our preconceived notions, all the traditions we have been handed down, all the standards we have built up are under the most bitter attack. In vast areas of the world the civilisation in which we have believed lies broken and trampled underfoot. We shall only preserve it in those countries still susceptible to our influence, and in the end revive it elsewhere if our own example is a high one, based on true ethical conceptions. Forty years ago, in a similar context and not altogether dissimilar circumstances, Lord Macmillan, a great and lovable Scottish Judge, who will be well known to all of you by name and to many of you personally, put it in words which would sound priggish in me but would which were simple and sincere in him:

> "Our former easy acceptance of the daily routine of life no longer satisfies us. We each and all feel that we must justify ourselves anew. We cannot rest until we have retried by the more rigorous standards which this time of stress has set up the manner of our daily lives and vocations. The times demand resurveys and revaluations."

It was in that thought that it occurred to me that it might possibly be just worth while to examine and restate afresh part of the basic philosophy on which, in the common law countries, the practice of the law now rests.

One may start, may one not, with the proposition that no one denies the necessity for having lawyers. When in Henry VI Shakespeare put into the mouth of Jack Cade the exhortation "Lets first kill all the lawyers," it was not because of any philosophic conviction that lawyers were unnecessary in an ideal society: it was because it was felt that they had abused their

privileged position. It has always been accepted in all countries, at all stages of development ever since the State has assumed to administer justice between man and man that those who may have recourse to the Courts ought to be entitled, if they wish, to have the services of an advocate to represent them. And why so? The law is not an exact science. To appreciate its content requires special training and knowledge. And the application of the law to particular facts—the ascertainment of justice in the particular case is a matter of infinite complexity. There is hardly a case comes before the Courts but the opposing lawyers have at some stage, honestly but with the matter illuminated for each of them only from his particular side, advised their respective clients that they were in the right. And at the end of the day, when the law has been ascertained, it is often very hard to say how, in its application to the facts, absolute justice would decide. Indeed absolute justice, like absolute truth, is probably incapable of ascertainment. In our common law system the most we seek is objective truth within the limits of the admissible evidence. But the application of even objective justice requires technical skill in knowledge of the law, dialectical skill in its presentation and argument. The ordinary citizen, often overawed and tongue-tied by his unfamiliar surroundings, must have a spokesman to argue for him. As Lord Macmillan put it in one of those charming Essays of his, the lawyer is there to assist justice: "It is his business to present to the Court all that his client would have said for himself had he possessed the requisite skill and knowledge." So Lord Herschell:

> "To penetrate the innermost recesses of men's action, to reveal their true motives, to tear the mask from the seemingly fair exterior and exhibit the real nature which lies behind—these are the duties of the advocate. He must discharge them fearlessly and faithfully."

The importance of argument in contributing to sound conclusion cannot be overrated. Some there are, of course, who subscribe to the fallacy that a lawyer's argument cannot be of value

because the lawyer is paid to deliver it. The great Dr. Johnson is recorded as having been told by a Member of Parliament that "he paid no regard to the arguments of counsel at the Bar, because they were paid for speaking."

> *Johnson:* "Nay, Sir. Argument is argument. You cannot help paying regard to their arguments if they are good. If it were testimony you might disregard it, if you knew that it were purchased. There is a beautiful image in Bacon upon this subject: testimony is like an arrow shot from a long bow: the force of it depends on the strength of the hand that draws it. Argument is like an arrow from a cross bow which has equal force though shot by a child."
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> [LIFE. VOL. IV. 281]

"Truth, said Lord Eldon, "is best discovered by powerful statements on both sides of the question." [*Ex parte Lloyd.* 1822 Montague Reports, p. 70]*

Sound arguments—the question of sincerity does not arise here: the question is their logic, their cogency—produce sound judgments. That is why it is often said, and indeed it is a matter of the greatest truth, that a strong Bar begets a strong Bench. I need not take up more time, in pointing to the ethical justification and practical necessity for advocates as a professional class. The criticism against us, partly arising from a misconception of our function, but partly contributed to by our own failure sometimes to live up to the high principles which justify our calling, is that we abuse our position. Not by material dishonesty. It is not that people think we are corrupt. It was not about a member of this Association that John Buchan, who later on became Lord Tweedsmuir—a great barrister, novelist and statesman—wrote when he put into the mouth of one of his characters, Mr. Jones, this observation: "I do not like the folks that call themselves Jurists." "Nor do I" said Christopher Normand from the depths of his arm-chair, "they usually come from Guatemala or Peru.

They start by talking of Solon and Lycurgus and they end by being squared." I must hasten to add, in order to preserve our friendly relations, that Mr. Normand was referring to Guatemala and Peru in a sense long since past. The lawyer nowadays is not suspected of financial dishonesty. What is suspect is his intellectual sincerity. The doctor is regarded, and rightly, as the servant of humanity, but the lawyer is too often looked upon as a parasitical and hypocritical person who makes money out of the misfortunes of others by prostituting his intellectual capacities. That he seeks to make the worse appear the better cause.

Sometimes our conduct gives a substratum of truth to this otherwise misconceived criticism. The only way in which we can, as a profession, deserve the respect of the whole community is by maintaining the high conception of our place in the social scheme of things and the high standards of professional conduct which we have built up. What then, is the ethical position of the advocate?

Let it be said that the lawyers who regards his function as making the worse appear the better cause, who devotes his skill to elaborating schemes for frustrating and deceiving the law or the Courts, who deliberately pits his wits against the legislature and against the Judges is unworthy of his gown. These are not the high tasks of the lawyers in the common law countries. It was not for such base uses that D'Aquesseau, a great French Chancellor some hundreds of years ago, called the order of advocates "As old as the Magistracy—as noble as virtue." The advocate, said Cardozo in one of his opinions is "a Minister of Justice" [in the matter of *Jacob Rouss* v. *The Association of the Bar of New York* 224 N.Y. 483], and there was old authority for the expression. Thus to take one of many examples Lord Langdale refers to "those truly honourable and important services which counsel constantly perform as Ministers of Justice in aid of the Judge before whom they practice. [*Hutchinson* v. *Stevens* 1 *Keen* 668].

It is true that you may find in the books earlier expressions of opinion which seem inconsistent with this conception of the duty

of the advocate. Thus Lord Brougham, in his well known defence of Queen Caroline before the House of Lords:

> "I once before took occasion to remind your Lordships, which was unnecessary but there are many whom it may be needful to remind, that an advocate by the sacred duty which he owes to his client knows in the discharge of that office but one person in the world—that client and none other. To save that client by all expedient means, to protect that client at all hazards and costs to all others, and among others to himself, is the highest and most unquestioned of his duties; and he must not regard the alarm, the suffering, the torment, the destruction which he may bring upon any other. Nay separating even the duties of a patriot from those of an advocate, and casting them if need be to the wind, he must go on reckless of the consequences if his fate it should be unhappily to involve his country in confusion for his client's protection."

Lord Brougham perhaps allowed himself to be carried away; that would certainly not be regarded now as the advocate's position. Lord Brougham mellowed and matured: he became a great Lord Chancellor. But the attitude he expressed in that case is perhaps explained by the fact that he hardly started his career at the Bar with a very high conception of his calling. A great opportunity had presented itself to go into the law, an opportunity he thought he ought to take, and he wrote a letter to Lord Grey in which he said

> "However odious the profession is, as God knows there are few things so hateful, I am quite certain that it would be an utter madness in me to neglect so certain a prospect."

And so he went into chambers with Mr. Tindal, a distinguished Junior who himself became Chief Justice, and he prospered greatly, although when an anxious relative explained to Tindal the hope that Brougham was devoting himself body and soul to his profession, Tindal answered, "I don't know anything about

his soul, but his body is very seldom in chambers!" But later years brought greater wisdom. When Brougham had reached the ripe old age of 86, in 1864, the English Bar entertained a distinguished French advocate to one of those dinners at the Inns of Court at which we have had the honour of entertaining many of you. Lord Brougham made a speech and then Lord Chief Justice Cockburn, spoke, in reply to the toast of the Judges. He explained the position, as he said, "feeling that our guest might leave us with a false impression of our ideals." What he said has often been quoted:

> "My noble and learned friend Lord Brougham, whose words are the words of wisdom, said an advocate should be fearless in carrying out the interests of his client; but I couple that with this qualification and this restriction that the arms which he wields are to be the arms of the warrior and not of the assassin. It is his duty to strive to accomplish the interests of his client—per fas, but not per nefas. It is his duty, to the utmost of his power, to seek to reconcile the interests he is bound to maintain and the duty it is incumbent upon him to discharge with the eternal and immutable interests of truth and justice."

And history records that Lord Brougham nodded his head in agreement.

Sometimes there may seem to be a nice conflict between the duty to the Court and a duty to the client—the kind of conflict which John Galsworthy so well portrays in his great play Loyalties. But our supreme loyalty always is to our profession and to the cause of justice; our overriding duty to the Court. Per fas, not per nefas. It is the truth which in the end is to be elicited. We are entitled to put our client's case—we are his representative —with courage and with vigour. We have no right to invent a case for him. A clear distinction has to be drawn between suggesting the facts which it would be desirable to prove in order to establish some particular case, which is something we may never do, and indicating what is the proper line of defence or claim

available on the facts as we are told them by our clients. We can point out the nature of the evidence which is required to establish the facts as the client states them to be, but it is manifestly not for us to concoct a case. It is axiomatic that the advocate must never knowingly mislead the Court.—Whether in a criminal or a civil case, subject to rules as to onus, the duty is to present to the Court the whole truth. A great English Chancery Judge, Lord Tomlin, in the course of a well known paper, said this:

> "In an age when the propounders of theories are many and when facts are apt to be regarded as things which may be ignored or even moulded to fit theories the maintenance of the intellectual honesty of lawyers is a matter of the first importance. For them there is no moulding or ignoring of relevant facts. Those facts must be ascertained and faced before the theory or principle to be applied is sought. The upholding and display of that attitude of mind cannot fail by practice and example to be of value to the community as a whole."

And just as with the facts, so with the law. It sometimes happens that one's researches lead to the discovery of some authority adverse to the case for which one is contending—but that neither opposing counsel nor the Judge is aware of it. Or occasionally a barrister will hear the Court misdirecting itself on some point of law. It is always the duty of the advocate to assist the Court and bring all cases to the notice of the Court.

> "The House of Lords expects—and indeed insists—that authorities which bear one way or the other upon matters under debate shall be brought to the attention of their Lordships by those who are aware of those authorities. This observation is quite irrespective of whether or not the particular authority assists the party who is aware of it. It is an obligation of confidence between their Lordships and all those who assist in the capacity of Counsel." So Lord Birkenhead in *Glebe Sugar Refining Co.* v. *Greenock Harbour Trustees.* 1921. S.C. (H.L.) 72.

Abraham Lincoln, whose portrait is the only one which adorns my study at home,—Abraham Lincoln as one might expect, gave a good example of that intellectual honesty. And at the same time of effectively disarming advocacy: always put all the points against yourself before they are taken by the other side—and answer them in advance. "Confess and avoid": in sailing, we call it taking the other man's wind. The first time Lincoln appeared in the Supreme Court of Illinois, he is recorded as saying:

> "This is the first case I have ever had in this Court and I have therefore examined it with great care. As the Court will perceive by looking at the abstract of the record the only question in the case is one of authority. I have not been able to find any authority to sustain my side of the case. But I have found several Cases directly in point on the other side. I will now give these authorities to the Court and then submit the case."

The position of the Bar possessing an exclusive right of audience in the Courts is one which carries with it very great responsibilities. Certainly we can do irreparable harm if we abuse our privileges. For instance, it is axiomatic that an advocate must never yield to the pressure of his client in pleading an improper case—in alleging fraud, for instance in the Statement of Claim, or other improper conduct. An advocate must never do that unless he is convinced that the available evidence establishes the proof of what the client alleges and *also* that it is *necessary and just* to allege it. Per fas, not per nefas. And there, of course, standards have greatly improved from what was tolerated in the 16th and 17th centuries. We must not slip back. Lord Macaulay commenting upon the manner in which Francis Bacon had prosecuted the Earl of Essex asked "whether it was right that a man with a wig on his head and a band round his neck should do for a guinea what, without those appendages, he would think it wicked and infamous to do for an Empire?"

And the answer is manifestly that it is not. The right of cross examination is important: it is one of the things which distin-

guishes the procedures of trial in the common law countries from those derived from Roman law and I think distinguishes it to the advantage of our system. But it is a right easily abused. One has always to remember that its object is not to examine crossly, as Mr. Baron Alderson put it; not to blackguard the witness; not to bring out unhappy or descreditable things there may have been in the witnesses past unless they have a clear and direct bearing on the witnesses credibility in the instant case. Most of us, I suppose, have been pressed by foolish or vindictive clients to raise matters or to put questions which had no real bearing on the issue of credibility. One of my earliest recollections in practice is that of a case in which a clergyman who knew that a servant girl who was giving evidence was illegitimate, and knew it because he had himself married her parents after the event, insisted upon her illegitimacy being brought out in cross examination. It had the effect of a boomerang. I remember with regret that he collapsed in the witness box when later I cross examined him on the question how he reconciled his conduct with the christian principles he taught. I mention it as an example of the things that sometimes happen. Lord Birkenhead, when Mr. F. E. Smith, was rebuked for asking rather similar questions. It is no part of our duty as advocates to damage the reputation of the other party to a case, still less the reputation of a witness or a stranger, unless the matter is one which really goes to the issues in the case itself and only then if the facts justify it. It is all well summed up in an often quoted passage in the opinion of an Irish Judge, Mr. Justice Crampton, in the famous case of *O'Connell.* Talking of the duty of the Advocate, he said:

> "He gives to his client the benefit of his learning, his talents, and his judgment; but all through he never forgets what he owes to himself and to others. He will not knowingly misstate the law, he will not wilfully misstate the facts, though it be to gain the cause for his client. He will ever bear in mind that if he be the advocate for an individual and retained and remunerated (he added in

> parenthesis, often inadequately!) for his valuable services, yet he has a prior and perpetual retainer on behalf of truth and justice; and there is no crown or other license which in any case or for any party or purpose can discharge him from that primary and paramount retainer." [1844 7 I.R. 313].

But, the critic will say, how is all this high sounding language about the cause of truth, this analogy between the lawyer and a Minister of Justice, to be reconciled with the advocate's support of some odious case—perhaps some case against the State: perhaps the defence of some disreputable criminal. The answer, of course, lies in the fact that the advocate is not to be identified with his client. He is the representative but not the alter ego. And he must preserve his objectivity and detachment. At the English Bar, we have a rule—I do not know whether you do here—which may seem trivial in itself but which I believe is important. Counsel in England never says "I think." He says "I submit" or, "I suggest," or, to the Judge or Jury, "You may think." But what Counsel thinks is as a rule irrelevant. To say—"I think my client is innocent" or "I think the correct view of the facts in evidence is this" is to make the personal judgment and reliability of Counsel an issue for the Court. And if of one Counsel, then of both. That is manifestly most undesirable. The rule therefore rests upon a very practical, as well as upon an ethical foundation. If an honest Counsel were allowed to pledge his personal beliefs in the justice of his case, either the other side would be without Counsel at all or dishonest barristers would appear to pledge a conviction they did not sincerely hold. I remember one case in which I heard a great Chancery Judge, afterwards Lord Uthwatt, reply to Counsel who had said "I think—this, that and the other." "Please do your thinking in Chambers, Mr. Snodgrass and confine yourself here to making such *submission* to me as your thinking, if any, has led you to consider proper." A rather similar rule applies in England,—I think you have it also—about penalty. The appropriate penalty is a matter of opinion. And it

is not for Counsel to volunteer his opinion. In the 16th Century that was not the rule, but nowadays it would be unthinkable for a barrister in England to express a view as to the penalty or to ask for a severe penalty, although he must bring out all facts tending to mitigation. I am not sure what your practice is as to that but the general function of the Prosecuting Attorney is expressed in your rules exactly as it would be in ours—"the primary duty of a lawyer engaged in public prosecution is not to convict but to see that justice is done." The importance of detachment, of not being identified with a client's case is really of very great significance. It is, indeed, an essential aspect of the Advocate's independence. Lord Eldon well expressed the position when he said of Counsel "He lends his exertions to all, himself to none. It is for him to argue. He is merely an officer assisting in the administration of justice." (*ex parte* Lloyd. *supra*).

That position being recognised—or I would say, rather, that being the true position, for very often it is not recognised by our critics and sometimes not even by ourselves, the duty of the lawyer in regard to the odious case, the unpopular cause, the case which involves a conflict with the State, and so on, is the more obvious. And let there be no doubt about it. The failure to recognise it is one of the main reasons why people sometimes look askance at the Criminal Bar. In the common law countries generally (it is certainly so in mine, and I assume it to be so in yours), it is the duty of Counsel to act in any case before any Court in which they normally practice, and for their normal fee whether or not they find the case odious, unpopular or of political embarrassment. I say that that is the position in the Common Law countries, and I believe it to be important. But I realise that it is not so in some other and respectable systems of law. Monsieur Siré, a distinguished Batonnier of the French Bar, said in a recent article:

> "Independence is one of the fruits of freedom and freedom implies responsibility . . . this outlook assuredly widens the gap between ourselves and our British colleagues. It

> was by a movement in the opposite direction that they reached the point when they forbade themselves to refuse a brief. . . . The English barrister likens himself to a taxi driver at the disposal of all passers by. Such modesty seems excessive. The English barrister puts us, rather, in mind of a virtuoso who can enjoy the utmost inner sense of freedom when playing a sonata composed by someone else. In France, apart from the exceptional case where a brief is imposed by the Batonnier or by the President of certain Courts, we have the right not to take the fare aboard if his destination does not suit us, and not to play the sonata if we think the music is poor. Our freedom is expressed on a different plane. We do not claim to be better, but doubtless we gain in the way of personal conviction whatever we may lose in the way of abnegation."

That statement seems to me to involve implications which we would regard as fallacious. It assumes that the advocate has reached a personal conviction or judgment on the merits of the case. And that, we would say, Counsel ought not to do. The general nature of a case may appear odious, unpopular, politically embarrassing. The extent to which these epithets can be applied to particular parties in the case will only appear in the judgment of the Court. We as advocates must not make that judgment. If we do, persons involved (whether rightly or wrongly) in odious, unpopular or politically embarrassing cases may be unable to secure advocates to represent them and, since it is agreed that the assistance of advocates is necessary to the administration of justice, they will be denied justice. Baron Bramwell put the point succinctly when he said "A client is entitled to say to his Counsel 'I want your advocacy, not your judgment. I prefer that of the Court.'" (*Johnson* v. *Emerson* 1871 6 Ex. p. 367).

Nor is it any answer to say that if one Counsel refuses to act, because he regards the case as odious, unpopular or politically embarrassing, there will be plenty of others to take up the case.

That may not inevitably be so. Suppose that you or I lived in a Communist country and were accused of some political offence. Should we feel confident that there would be Counsel, of adequate capacity, and with the courage to put forward a robust defence? I mention that merely as an example: it is easy to imagine changing circumstances in which there might be cases in our own country which no advocate would feel it wise to touch, unless it were his duty so to do.

In parenthesis, I should perhaps observe that in the Communist countries, indeed, the problem does not arise in the same way since the advocates are organised in a cooperative or collegium and have briefs assigned to them. But their conduct of the case is circumscribed. A lawyer, and a very distinguished one whom I encountered many times in debate here at the United Nations, the late Mr. Vyshinsky, categorically placed the interests of the Government above those of the accused. In his book on "Revolutionary Legality and the Task of the Defence" (1934 p. 38) he said:

> "The first requirement which must be set for a Counsel for the defence is the high sense of political responsibility, high political qualification, high training, good school, social discipline . . . the knowledge of how to argue for his point of view and courageously proceed in the fight for what he believes in not because of the interests of his client but of the interests of building up socialism and the interests of our State."

In other words, the advocate must be politically "safe," and must fight courageously for the political cause in which he has been indoctrinated. Even in Czechoslovakia, where they should know better, the general task of the Bar is defined by its statute as strengthening, not justice or the law, but "socialist legality" which is elsewhere defined as "an important instrument for strengthening the dictatorship of the Proletariat" (e.g. Bulgaria: Sotsialistichesko Pravo No. 3, 1954, p. 17; Czechoslovakia: Fili-

porsky, O obcené Casti Trestniho Sakona 1951). But here I must pause to pay a tribute to more liberal tendencies which manifested themselves in the Poznan trial in Poland. Stimulated perhaps by the presence of some foreign lawyers and by the feeling that they had a strong backing in Poland, and throughout the world, Counsel for the defence in the Poznan case acted with a freedom and courage not hitherto seen in the Court proceedings of the Communist countries.

I return to this question of the obligation of Counsel to accept a brief and act courageously, in any case in the Courts in which he normally practices which is, of course especially important, in political cases. In my country Socialist lawyers have been bitterly attacked in Communist papers and by fellow travellers who have not liked the subject matter of cases in which those lawyers were engaged or perhaps the politics of the clients they were representing. I was myself attacked a good deal when it became known that I had acted for Sir Winston Churchill. Lord Birkenhead was publicly criticised for representing Mr. Asquith. I have even heard of cases where, after the event, attempts have been made to penalise a barrister because he had acted in some unpopular case, as, for instance, by refusing him admission to some Club or declining to elect him to an office. It was, indeed, in connection with the deprivation of an office that our rule became firmly established. And it is well to remember how it arose. It was in 1792. Tom Paine had published the second part of his, at that time infamous, now, perhaps, rather famous, book called the Rights of Man. Paine had attacked in strong language the Constitution and Government of England, and an information was accordingly laid against him: he was to be prosecuted. The great advocate Erskine was sent a brief to defend. Erskine at this time was Attorney General to the Prince of Wales, a position which entitled him to accept private work but he was warned in advance that if he accepted the brief to appear on behalf of Paine, he would be dismissed from office. Of course Erskine did accept the brief none the less and because of the brave defence

he felt it his duty to make on behalf of his client he was deprived of his office. But in a famous speech he said:

> "In every place where business or pleasure collects the public together, day after day, my name and character have been the topics of injurious reflection. And for what? Only for not having shrunk from the discharge of a duty which no personal advantage recommended and which a thousand difficulties repelled. Little indeed, did they know me who thought that such calumnies would influence my conduct: (And what follows is printed in capital letters by the Editor of Howells State Trials). I will for ever, at all hazards, assert the dignity, independence and integrity of the English Bar without which impartial justice, the most valuable part of the English Constitution can have no existence.
>
> From the moment that any advocate can be permitted to say that he will or will not stand between the Crown and the subject arraigned in the Court where he daily sits to practise, from that moment the liberties of England are at an end. If the advocate refuses to defend from what he may think of the charge or of the defence, he assumes the character of the Judge; nay he assumes it before the hour of judgment; and in proportion to his rank and reputation puts the heavy influence of perhaps a mistaken opinion into the scale against the accused in whose favour the benevolent principle of English law makes all assumptions, and which commands the very judge to be his Counsel." (*State Trials* XXII, p. 411).

That was truly said; how truly, you have only to see in looking at the Communist or Fascist countries where no lawyer dares to put forward any real defence on behalf of those accused of offences against the rulers. But Erskine was vindicated and afterwards became a Lord Chancellor.

Almost exactly 50 years later, a great American Attorney, William Henry Seward acted similarly in defending the Negro

Freeman in a particularly infamous case of murder. The peroration of his speech is remembered by you and by us with gratitude:

> "In due time, Gentlemen of the Jury, when I shall have paid the debt of nature, my remains will rest here in your midst with those of my kindred and neighbours. It is very possible that they may be unhonoured, neglected, spurned! But perhaps years hence, when the passion and excitement which now agitate this community shall have passed away some wandering stranger, some lone exile, some Indian, some Negro, may erect over them a humble stone and there on inscribe this epitaph "He was faithful."

The epitaph he suggested is, indeed, upon his tomb, and marks his influence: "He was faithful"—to the great tradition of his profession.

This duty to act as an advocate, not indeed to obstruct the course of justice but to help in bringing out all of the truth is, of course, the answer to those who ask—and this is the very basis of the disfavour with which lawyers are often regarded—how can any honest lawyer appear for one whom, perhaps he knows to be guilty or who is at least involved in some odious offence? But what has become almost the locus classicus for the statement of the true position is of course Boswell's life of Dr. Johnson. Dr. Johnson lived in a period of great creative activity in English and indeed in Scottish law. He took a great interest in its development and there is no doubt that the law and the lawyers had great influence upon him, although it cannot be said that he had any special prejudice in favour of the lawyer. In his "London" he wrote:

> "Their ambush here relentless ruffians lay
> And here the fell Attorneys prowl for prey."

On another occasion he is recorded as saying:

> "I do not care to speak ill of any man behind his back but I believe the gentleman is an attorney."

On the question of professional ethics, however, he was more sound:

> BOSWELL wrote . . . We talked of the practice of the Law. Sir William Forbes said, he thought an honest lawyer should never undertake a cause which he was satisfied was not a just one. Sir (said Dr. Johnson) a lawyer has no business with the justice or injustice of the cause which he undertakes, unless his client asks his opinion, and then he is bound to give it honestly. The justice or injustice of the cause is to be decided by the judge. Consider, sir; what is the purpose of courts of justice? It is that every man may have his cause fairly tried, by men appointed to try causes. A lawyer is not to tell what he knows to be a lie: he is not to produce what he knows to be a false deed; but he is not to usurp the province of the jury and of the judge, and determine what shall be the effect of evidence—what shall be the result of legal argument. As it rarely happens that a man is fit to plead his own cause, lawyers are a class of the community, who, by study and experience, have acquired the art and power of arranging evidence, and of applying to the points at issue what the law has settled. A lawyer is to do for his client all that his client might fairly do for himself, if he could. If lawyers were to undertake no causes till they were sure they were just, a man might be precluded altogether from a trial of his claim, though, were it judicially examined, it might be found a very just claim.

I have myself always found it best to avoid forming any personal opinion on the merits of cases I have dealt with. Eventually that becomes rather a habit of mind. Of course, that may mean that one lacks the enthusiasm of an advocate firmly convinced that his cause is just: it also protects one from despair or hypocrisy when we feel the opposite. There is an account in the life of Marshall Hall of a case in which a client, who wished him to act, had given him an account of the matter which he did not believe.

He was minded accordingly to refuse the brief. But he asked the advice of the Attorney General, afterwards Lord Alverston. "If you were a doctor," said Sir Richard Webster, "would you refuse your aid to a poor Magdalen dying of a horrible disease?" Hall, thus advised, did the case and as the evidence developed he realised that his first impression was wrong and became convinced of his client's innocence, as was the Jury. "That taught me a lesson," observed Marshall Hall "which I shall never forget." (Life: Marjoribanks, p. 69).

All of us have probably had similar experiences. Of course, sometimes we know that a client who desires to plead not guilty is in fact guilty, perhaps because he has admitted it to us (although this never once happened to me as an English trial lawyer) or because of other incontrovertible facts. If that happens before we have embarked upon the case, the rules of the English Bar permit Counsel to withdraw to avoid embarrassment —some other Counsel may proceed unencumbered by similar knowledge. But if it occurs in the course of a case the position is different. To withdraw then would gravely prejudice the client. But very strict limitations are then laid upon the conduct of the defence. The matter was much discussed in connection with the trial at the Old Bailey in 1840 of Courvoisier who was accused of murdering his employer Lord William Russell. Courvoisier told Phillips, whom he had briefed to defend him, that he had in fact committed the murder. Phillips said that "you will, of course, then plead guilty" but Courvoisier replied that on the contrary he expected Phillips to defend him to the utmost. Phillips then consulted Baron Parke who said that if the prisoner insisted Phillips was bound to defend him and to use all fair arguments arising on the evidence. But the way in which he carried out this obligation aroused great criticism. It appeared that he was suggesting that another of Lord William's servants might be guilty—and in his peroration he called upon the Diety:

> "But you will say to me, if the prisoner did not do it, who did it? I answer, ask the omnipotent being above us who

did it? Ask not me, a poor finite creature like yourselves who did it?"

Perhaps he had been misled by his notes as were the Secretaries of the late Mr. A. J. Balfour when he was Prime Minister. On one occasion, when going through the typescript of a draft speech he pencilled in a side note "refer again to A.G." There was a constitutional point which he wanted the Attorney General to look at again. But the speech came back with an eloquent new paragraph inserted appealing to Almighty God.

What is certain is that in such a case Counsel must not lend himself to any deception. He must not say his client is innocent —he knows he is not. He must not call him as a witness—for he would be a perjured witness. He must not suggest that some third person is guilty, for he knows his client is the guilty man. For the same reason he must not imply that the witnesses for the prosecution are lying. All he can do is to insist that the prosecution discharge the onus of proof.

In all this rather tedious, rather elementary exercise, I will not dignify it with the name of a restatement, I have dwelt only upon principles which seem to me fundamental. I do not attempt to canvass some interesting divergencies in the ethical practice of the English and American Bars. Still less those which exist between the Common Law and the Roman Law systems. Many of these differences arise from the division of the legal profession in England—for instance the rule that a barrister does not normally see a witness personally, before he is called onto the witness stand. Others are accidental. But none I think give rise to any significant disagreement on any basic ethical principle, and I use the word ethics in its wide, not its narrow professional sense. In these basic principles we find no room for divergence.

Perhaps now I may speak in more general terms about the lawyers position in society. In part the prejudice which exists against lawyers as a class is due to this feeling that lawyers are insincere people, people who earn their living by espousing causes in which they do not believe and who are continuously engaged in venal disputations. But I think also that there is often an obvious

confusion between the law and its administrators, on the one hand, and the people who make the laws, our friends the politicians, on the other.

In England, and I dare say here, there is a general feeling that we have too much law. And I should think that is probably quite right. It is no new feeling; everybody remembers Rousseau's statement: "Man was born free, but everywhere he is now in chains," an obvious over-exaggeration and over-simplification; practically all famous statements are, but there it is. It is a good thing, I think, that we should all retain sufficient individualism to be anarchists at heart. I suppose we have all of us on some occasion broken some law about something; we should be extremely priggish people if we had not, and naturally we are inclined to dislike the laws we break: "No convict felt the halter draw with good opinion of the law." We distinguish between things which are mala prohibita and those which are mala in se. The laws we break are merely mala prohibita. The laws others break are mala in se. But there is more to it than that. In both our countries there is a tremendous respect for the basic principles of the law and for the administration of justice; it is rather the small change of legislation in this difficult and insecure period which is so irritating. The growing complexity of modern life has led to a great mass of legislation; much of it is inevitably hastily constructed; much of it is so intricate and so complicated that the state of a great deal of our law today makes a complete mockery of the old theory that it is the business of every subject to know the law, and he must be presumed to do so. The law, relating to income tax, for instance, touches all of us in the most painful ways. But how many of us save the specialists, understand it? Some of the dissatisfaction which exists with these aspects of the law is visited upon the lawyers. But our alibi about it is not quite complete. Lawyers do have a share in the making of law—our enemies say too large a share—and they are, of course, predominant in the administration of it. We certainly have, as a profession, our contribution to make in solving the problems of these revolutionary times, which are those of reconciling order with liberty, and of marrying together the, apparently but

not really conflicting instincts of man, the instinct of individualism with its desire to compete, and the social instinct with its desire to cooperate. And on the political plane, there is the desire to maintain existing democratic institutions, the desire to alter and improve them, a legitimate desire, and sometimes the desire to subvert them. How far in all these matters may the law go in restricting the freedom of individual people in order to protect the basic freedoms of the multitude of peoples? Here the lawyer must watch with jealousy to protect the rule of law. It is sometimes hard to define the line between legitimate sanctions to protect liberty and tyrannical ones. Freedom is a relative thing. I think it was John Stewart Mill who said, "It is the right to do what you like, provided you do not make a nuisance of yourself to your neighbour." That is something which implies restraint. It is summed up in the maxim, "Do as you would be done by," which, if it has not been laid down in some leading case, certainly ought to be. That is what which distinguishes liberty under the law from the state of anarchy which preceded law and lawyers, when as Hobbes said, "Man's life is solitary, nasty, poor, brutish and short." It is all according to the extent my neighbour's interest and rights ought to qualify my own. Some cases are matters of politics in which the lawyer, as such, is not concerned, but, when I get depressed about modern tendencies, I always console myself with the fact that about sixty years ago Herbert Spencer wrote: "Daily legislation betrays little anxiety that each shall have what belongs to him, but great anxiety that he shall have that which belongs to somebody else." I do not know what he would have said if he had lived in these days; I believe it was said of him that he used to stuff his ears with cottonwool. He would require a great deal of it now.

There is always a tendency in social policies to run to extremes, and the thing is to secure a balance, to have the minimum of restrictions on liberty and the individual which are consistent with the well being of the many. I think one of the parts lawyers have played in society is, on the whole, to have exercised a very great, very objective, moderating and balancing influence on

social developments. Somebody said of lawyers that they have formed a kind of cement which binds together the bricks of civilisation. The aim of politics and the object of the law ought to be parallel: to protect those fundamental human rights which are in this country, and ought in all countries, to be freely available to all, to secure justice for all and, subject to those things, to promote the greatest good of the greatest number. I say "subject to those things" for a restraint on liberty does not cease to be a restraint, nor does injustice change its character because it is imposed or sanctioned, by the majority. In the United States certain fundamental human rights—by no means all—are guaranteed by the Constitution although varying interpretations have been put upon these guarantees from time to time. In Britain there are no guaranteed or absolute rights. But I suppose that at the end of the day it is true in your country as it certainly is in mine that the real safeguard of our liberty lies not so much in any specific rule of law or article of the Constitution as in the good sense of the people and in the system of representative Government which we have painfully established. In that sphere the lawyer can guide, advise and influence, but, of course, he cannot control, and yet his influence has been great.

It was Justinian, I think, who said, "Justice is the constant and perpetual wish to give everyone his due." I do not say that those principles have been fulfilled in our laws. Very often we have fallen short of them, but I do say that nobody looking at the history of our two countries as it has unrolled itself, and considering the part played in it by the judges and the lawyers, looking at its steady expansion, and the development of legal and political institutions bringing fuller lives to our people, can fail to see the golden thread of those principles weaving itself throughout our story, or can fail to understand the noble service which lawyers have played in that gradual unfolding. Lord Macmillan, himself a very great, kind and modest judge, whose departure we all deeply lament, once said this in one of his writings:

> "I have bracketed justice and liberty as the supreme ends which the spirit of law prescribes for political science. In

> truth, justice and liberty are not and cannot be isolated from each other, for there can be no real justice without liberty and no real liberty without justice. A much graver wrong is done to a man in unjustly depriving him of his liberty of action, of thought or of speech than in unjustly depriving him of his material possessions. The supreme injustice is the coercion of the soul. The history of civil government in this country has been the history of the slow but sure achievement of civil liberty for its citizens, and it is because in other less happy lands around us we see liberty being threatened and destroyed that we must take heed that this menace does not reach our shores."

In all that a free, an independent and a courageous legal profession has played and will continue to play a great part, influencing the legislators with the noble principles of justice and the law, promoting balance and moderation and standing between the citizens and the excess of arbitrary power.

Our following involves not a mercenary trade but the carrying on of a very great tradition; it is a tradition which is remarkable in this, having regard to the extent to which it is competitive, that it is one in which there has always been a tremendous spirit of friendship and of confidence between its members. And the very foundation of that confidence is the knowledge that the basic duty and responsibility of each of us in the practice of our profession is "to play fair."

And so, as Shakespeare put it, we do "as adversaries do in law strive mightily but eat and drink as friends." I believe that the integrity and independence of the Bar has depended upon the existence of that spirit. And I rejoice to think that that spirit not only animates your Bar as much as mine but characterises the relationship between us all.

And now I cast aside my notes and my mind goes back 12 years to the first occasion when I spoke in this hall. It is an occasion I shall never forget. I had come hurriedly and very unprepared from some session of the United Nations then at Lake Success

and I spoke on the work of the Labour Government in England —a subject not calculated to lead to any warm response! But I received a warm response. As one looks back over a misspent life there are always certain episodes which stand out. Some sad. Some happy. Many of failure. Some of frustration. And now and again one of success. That occasion years ago I like to look back upon as one of success, and certainly one of happiness. Part of my life—and certainly a large part of my heart is in the United States and particularly in the New York Bar Association. I am indeed proud to be here again.

An Exchange Program for Lawyers

by MORRIS L. ERNST

Everybody is for One World, just as everyone is against sin. But how to reduce sin—whatever that is—or nudge up to One World is a matter of tactic and, as Trotsky once said, tactic is everything. We leave tactics of sin to others for the moment, but we should like to report a little addition to our muddled arsenal of tactics for improving international understanding. What we propose is neither staggeringly important nor universally applicable. Rather, it is a pleasant project, for lawyers only, which we feel might help to ease the world pains of ignorance and conflicting self interest.

We believe that there may be a true universality of legal concepts among peoples in civilized cultures throughout the world and an "in the flesh" discovery of such a common bond cannot but help to promote world peace. Consequently, we are at present conducting an experiment that might intrigue other law offices. As a kind of minor Fulbright Fellowship a lawyer from our office has gone to a solicitor's office in England in return for a visiting lawyer from the British solicitor. The duration of this exchange has been left purposely vague since definiteness is only advisable for clients, and then only when goodwill is not all pervading. Our guess is that six months may do the trick.

We can't predict the extent to which the English firm will benefit although we do believe that it will be directly related to the extent of our man's tact, culture and understanding and to the inquisitiveness of our British visitor. Surely, this is no mission for overspecialized human beings. The Bar has already lost much at their hands in terms of perspective and leadership.

We hope to gain a great deal from the exchange. It may well turn out to be the best possible form of adult education in the law for the partners and associates in our office. We do not only refer to gadgets and gimmicks of the law—those devices which

are often full of money profit, but do not necessarily bespeak wisdom. There are many more important things which we hope to learn both from our emissary and our visitor—things which will not only give us a greater understanding of the British as reflected in their law, but things which might also suggest directions of improvement to us here at home. For example, we shall be better able to assess the following in relation to our own legal system: Why and how is it possible that in England the prosecutor turns over all evidence of innocence to the attorney for the defendant in criminal trials? How effective is this concerted attempt to get at the truth in terms of our advocacy system? How extensive is the protection of ideas against theft as shown in recent English court decisions? How would this apply to protect ideas against mass media pirating in the United States? What are the comparative virtues and dangers of having accountants mentioned in certificates of incorporation? To what extent does such practice convert these accountants from employees controllable by directors or officers into people who owe a duty only to the stockholders—who hire and fire them? What is the history and practical effect of the general British practice of having no briefs in court? Would such a system work here? How do British barristers feel about the rule permitting unlimited time for argument? Could our Bar be skilled enough to aid the court so that the judges, as in England, would dare render opinions on close of the evidence and from the bench? What is the real basis of the separation of barrister and solicitor in England? Does it weaken the lawyer's relation to his client? And, if possible, would such a separation in this country help to resurrect the trial lawyer in our metropolitan centers? How does the treatment by the British Bar of indigent defendants differ from ours? Finally, and perhaps most important, why do the leaders of the British Bar have no hesitancy in representing, either in or out of court, the most unpopular of clients or causes? Surely here is something we could emulate with great profit to our prestige and power in the community.

As any reporter will tell you, the real answer to questions such as those we have posed cannot be gleaned from books. We all have tried that, without success, for too long a time.

England was, of course, the most likely place for us to try our first experiment. At the risk of seeming gluttonous we are about to work out another exchange on the corporate trust and estate level with a law office in a non-Anglo-Saxon culture. And, although the contrast will be even greater, so perhaps will be the opportunity for understanding and information.

The cost of such optimistic adventures in human relations is obviously minor. Nor will the exchanges disturb members of the Bar with an international law practice, despite the hypocritical implications and ill defined limitations of the Roel case.

This program of minor dimensions will probably do little to restore the leadership of the Bar in our community. Nevertheless, it may prove interesting and may needle the imagination of the Bar so as to invigorate the diminishing inventiveness and prestige of lawyers. So, if the Bar ever gets around to discussion with thoughtful good-will of its loss of prestige, such a trifle as this exchange may be part of a long inventory of projects to be considered. If a dozen lawyers go to each of a dozen cultures abroad, our profession may be enriched.

"Move Over, Grandma Moses; Here Comes Grandpa!"
A Plea for More Lawyer-Artists

by HARRIS B. STEINBERG

Next Spring, when the Annual Members' Art Show opens, will you be there? And, if you are there, will you be merely one of the onlookers, clutching a lukewarm Martini, and murmuring, "I can't draw a straight line," while you look enviously at your gifted colleagues? It needn't be that way. Of course, one way of avoiding that unhappy state, is merely to stay at home, but no true member of the Association would want to make so obvious, and cowardly, an escape. The other, and harder, way to avoid the status of mere onlooker, is to become an artist or participant yourself. Actually, it is enormously easy and lots of fun.

Over the years, we have had many regular contributors, but we note, with satisfaction, an increasing number of new recruits at each show. One year, a stiff and stilted landscape breaks the ice; next year, a portrait head, or a nude is submitted by the same man; and sometimes, the following years see a burst of riotous color, abstract design, or pieces of things glued on other things. Another lawyer-artist has been born, and all sorts of side-benefits have accrued, not only to the artist, but to his family, friends and associates.

Since such eminently respectable and notable persons as Winston Churchill and Dwight Eisenhower have demonstrated that painting can be fun, there would seem to be no reason why the most staid lawyer should have misgivings about turning to this relaxing hobby. People who have weighty problems on their minds and who suffer from tensions, usually find that doing things with their hands is a welcome release. Of course, the

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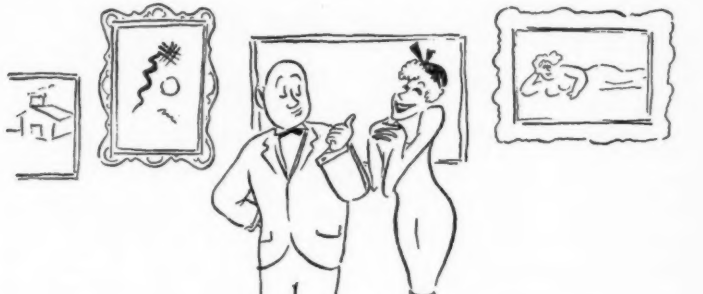
Editor's Note: Mr. Steinberg, a regular contributor to the Association's art show, is liaison member of the Executive Committee for the Art Committee.

Penal Law stringently proscribes many things done with the hands, leaving only a fairly limited scope for respectable activities of this nature. Painting ranks high in this category.



Materials can be as simple, or as elaborate as you wish. Little kits of oil colors, brushes, and palette, all ready for use, cost as little as $2 or $3 at Macy's or any art supply store. For the gadgeteer, there are heart-warming and endlessly complicated possessions to be acquired—all quite unnecessary. Indeed, one can play with art supplies for months and never make a mark on paper, much as the photographers buy filters, meters, and flashguns, without taking a picture. Oil sets costing as much as $30 or $40, with expensive bristle brushes, large tubes of luscious colors, canvas boards, palette knives, oil cups, carrying cases, folding seats, and smocks, are available as accessories. Water color sets, too, range widely in price. Tempera, gouache, poster colors, pastels, pencils, both black and colored, charcoal, crayons, wax, encaustic, and other media are available.

Assuming you have bought your equipment, you must then decide what you want to paint. Still-lifes, landscapes and portraits are favorites. Don't worry if they don't look like anything. After all, nothing is as chilling as the remark, "That is the way I want it to look." It will probably be met with the rejoinder, "I may

not know anything about art, but I know what I like." The next play on your part is the crusher. Either, "Well, Van Gogh was unappreciated in his time," or "Go soak your head, you ignorant baboon." The latter is recommended for the establishment of a reputation for artistic temperament.

For the sensitive, who worry about their ability to carry off this sort of by-play, and feel sheepish about pictures of fruit that look like sex-starved protozoa, the abstract field is recommended. There is no basis for objective comparison, and the viewer is effectively squelched. Lines, doodles, drips, splashes, squares or circles can be arranged in fascinating relationships.

Never forget that a beautiful frame will lend dignity to any picture, and nothing is as thrilling as seeing your first picture when it comes back from the framer. Any framed picture submitted to the art show—at least one by each entrant—will be hung, according to our announced and firm policy, regardless of what it looks like.

For those precedent-bound lawyers, who insist on looking things up in books, there are a number of books available, which may be usefully consulted. Among them are "Pictorial Composition," by H. R. Poore ($7.50); "Figure Drawing," by Hatton ($3.75); "The Artist's Handbook," by R. Mayer ($6.75); "The Human Figure in Motion," by Muybridge, and "Animals in Motion," by the same author ($10.00 each); "Theory of Pure Design," by Ross ($4.00); "Composition," by Harry Sternberg ($1.00); "Landscape Painting," by J. F. Carlson, and others, too numerous to mention, and even more confusing. E. Weyhe, at 794 Lexington Avenue, is a treasure-house, full of books on art.

Art courses, at private and public classes, are widely available. If you are careful to watch out for those offering life sketch classes, you will be able to draw from well-formed nude female models—an exhilarating experience, highly recommended. Be sure to bring your sketch pad and pencil, however, as these classes are serious, for the most part. The Art Students' League, the Y.M.C.A., evening extension courses at local colleges, and innumerable parent-teacher groups offer such classes.

In short, a failure to become an artist can only be your own fault, due to your own timidity, laziness, or tenseness. Conversely, becoming an artist will open a new world to you. After a hasty look at our present world, such a prospect looks alluring.

Committee Reports

COMMITTEE ON THE SURROGATES' COURTS

REPORT PROPOSING SPONSORSHIP OF STATUTORY AMENDMENTS REGARDING THE ACCUMULATION OF INCOME

Attached as Exhibit A and Exhibit B are drafts of two bills which are recommended by the Committee on the Surrogates' Courts for sponsorship by the Association. These bills would amend those sections of the Personal Property Law and Real Property Law which relate to the accumulation of income. They would liberalize the New York law on accumulations in a way which would bring it more nearly into line with the law in the great majority of the States.

The general effect of existing New York law is that a testator or settlor may direct the accumulation of income only for the benefit of an identified minor, and that all income accumulated must be paid over to that minor when he attains his majority. Under the common law rule, which prevails in more than 30 States,* income may be accumulated for any period not extending more than 21 years after the death of the last survivor of designated lives in being, and the testator or settlor is free to direct as he sees fit the ultimate disposition of amounts accumulated within the permitted period.

The proposed amendments would not go so far as to adopt the common law rule. They would, however, adopt the principle reflected in that rule—that is, they would allow the accumulation of income during all or any part of the period fixed by the applicable rule against perpetuities, and would dispense with any requirement that income accumulated be paid over to a designated beneficiary upon his attaining his majority. Under amendments enacted at the 1958 session and becoming effective on September 1, 1958, the period permitted by the New York rule against perpetuities will, in general, be any number of lives in being but will not include any period in gross such as the 21 years embodied in the common law rule.

It is the observation of members of our Committee, and, we believe, of many other lawyers having considerable experience in the fields of trusts and estates, that the creators of trusts are rarely interested in the accumulation of income except where it is necessary or desirable for the achievement of a definite family or charitable objective. Frequently they desire to have income accumulated and added to principal prior to the time that one or more beneficiaries shall reach a stated age. Very often, they are most reluctant to provide—as New York law now requires—that all income accumulated be paid over in a lump sum to a designated beneficiary when he

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Editor's Note: This report was approved by the Executive Committee at its October meeting.

* and, with minor modifications, in many others.

reaches age 21. In many situations, the law effectively blocks the full achievement of a client's perfectly reasonable objectives. In many others, those objectives can be achieved but only by means of establishing a trust in Connecticut or New Jersey—to name only two of the more convenient of the many States where the common law rule prevails—rather than in New York.

The existing highly restrictive New York law on accumulations was brought into the law by the Revisers of 1830 at the same time that New York's uniquely restrictive rule against perpetuities was enacted. Both rules apparently reflected a real fear on the part of the Revisers that the common law left a greater scope for individual abuses than was consistent with the public interest. We believe that the experience of the large number of jurisdictions which have continued to rely on the common law indicates that that fear was not justified.

Inflation and taxes render constantly more difficult the problem of providing at least a minimum of security for a wife and children. In dealing with the problem, the New York resident has long been especially handicapped by our peculiar rules on perpetuities and accumulations. The Legislature this year, at long last, alleviated to a considerable extent the handicap of the rule against perpetuities. We believe it should be urged now to take similar action on the rule regarding accumulations.

It will be noted that the bills would repeal PPL Sec. 16-a and RPL Sec. 61-a. Those sections specifically authorize a gift over of accumulated income in a case in which the minor for whose benefit the accumulation was directed dies before attaining his majority. Since the proposed new law would not impose any restrictions on the disposition of income validly accumulated, the special dispensation granted by existing Sections 16-a and 61-a would no longer be needed.

Our Committee requests that it be authorized to put forward, as sponsored by the Association, bills substantially in the form of the attached drafts.

Respectfully submitted,

COMMITTEE ON THE SURROGATES' COURTS

EXHIBIT A

AN ACT

To amend the personal property law, in relation to the accumulation of income.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The opening paragraph and the next succeeding three paragraphs numbered one, two and three, respectively, of section sixteen of the personal property law are hereby amended to read as follows:

All directions for the accumulation of the income of personal property except such as are allowed by statute shall be void. A direction for the

accumulation of the income of personal property contained in any instrument sufficient to pass such property is valid, if such accumulation be directed to commence within the time allowed for the suspension of the absolute ownership of such property and to terminate at or before the expiration of such time. If a direction for any such accumulation be for a period extending beyond the expiration of such time, it shall have the same effect as if such accumulation were directed to terminate upon such expiration.

§2. Section sixteen-a of the personal property law is hereby repealed.

§3. Subdivision one of section seventeen of the personal property law is hereby amended to read as follows:

1. When a *person* [minor], for whose benefit a valid accumulation of the income of personal property has been directed, shall be destitute of other sufficient means of support or education, the supreme court, at special term in any case, or, if such accumulation shall have been directed by a will, the surrogate's court of the county in which such will shall have been admitted to probate, may, on the application of such *person* [minor] or his guardian *or committee,* cause a suitable sum to be taken from the moneys accumulated or directed to be accumulated, to be applied for the support or education of such *person* [minor].

§4. This act shall take effect September first, nineteen hundred fifty-nine, and shall apply to all inter vivos transfers effective on or after that date and to estates or wills of persons dying on or after that date; and the provisions of law affected by this act in force prior to the taking effect of this act shall apply to all inter vivos transfers effective prior to September first, nineteen hundred fifty-nine, and to the estates and wills of all persons dying prior to September first, nineteen hundred fifty-nine, with the same force and effect as if they were not hereby amended or repealed.

EXHIBIT B

AN ACT

To amend the real property law, in relation to the accumulation of income.

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

SECTION 1. The opening paragraph and the next succeeding three paragraphs numbered one, two and three, respectively, of section sixty-one of the real property law are hereby amended to read as follows:

All directions for the accumulation of the rents and profits of real property except such as are allowed by statute shall be void. A direction for the accumulation of the rents and profits of real property contained in any instrument sufficient to pass such property is valid, if such accumulation be directed to commence within the time allowed for the vesting of future estates and to terminate at or before the expiration of such time. If a direction for any such accumulation be for a period extending beyond the expira-

tion of such time, it shall have the same effect as if such accumulation were directed to terminate upon such expiration.

§2. Section sixty-one-a of the real property law is hereby repealed.

§3. Section sixty-two of the real property law is hereby amended to read as follows:

When a person, for whose benefit a valid accumulation of the rents and profits of real property has been directed, shall be destitute of other sufficient means of support or education, the supreme court, at special term in any case, or, if such accumulation shall have been directed by a will, the surrogate's court of the county in which such will shall have been admitted to probate, may, on the application of such person or his guardian or committee, cause a suitable sum to be taken from the rents and profits accumulated or directed to be accumulated, to be applied for the support or education of such person.

§4. This act shall take effect September first, nineteen hundred fifty-nine, and shall apply to all inter vivos transfers effective on or after that date and to estates or wills of persons dying on or after that date; and the provisions of law affected by this act in force prior to the taking effect of this act shall apply to all inter vivos transfers effective prior to September first, nineteen hundred fifty-nine, and to the estates and wills of all persons dying prior to September first, nineteen hundred fifty-nine, with the same force and effect as if they were not hereby amended or repealed.

COMMITTEE ON PROFESSIONAL ETHICS

OPINION NO. 834

Question: Would it be proper for a New York attorney specializing in immigration practice dealing with French-speaking people, who himself speaks fluent French, to insert weekly in France Amerique, a foreign language newspaper written in French, an announcement in the nature of a professional card containing the attorney's name and office address and indicating that the attorney specializes in immigration law? The inquirer refers to Opinions 455, 539 and 572 of this Association.

Opinion: Our Opinions 661 and 750 declared improper under present Canon 27 the insertion of a professional card in foreign language newspapers. Insofar as earlier Opinions 455, 539 and 572 of this Association conflict with our later Opinions 661 and 750, we adhere to the views expressed in the later opinions.

October 6, 1958

The Library

LIST OF PUBLICATIONS PRESENTED BY AUTHOR-MEMBERS DURING 1958

Canudo, Eugene R. Corporations. New York, Gould. 1958. 43p.

Canudo, Eugene R. New York criminal law. New York, Gould. 1958. 74p.

Christy, Francis T. The model fiduciaries securities transfer act. Address before trust div., Am. bankers assn. New York, Feb. 10, 1958. 21p.

Christy, Francis T. The transfer of stock. 3d ed. Mount Kisco, Baker, Voorhis. 1958. 2v.

Clark, Grenville. World peace through world law. Cambridge, Harv. Univ. Press. 1958. 540p.

Collins, Jackson R. Convenience and advantage and its benefits. New York, Confer. on pers. finance law. 1957. 27p.

Dean, Arthur H. The law of the sea. 1958. 37 For. Pol. Bull. 173–5.

Dean, Arthur H. William Nelson Cromwell, an American pioneer in corporate, comparative and international law. New York, Ad Press. 1957. 237p.

Domke, Martin. Editor International trade arbitration. New York, Am. Arbitration Assn. 1958. 311p.

Domke, Martin. On the nationalization of foreign shareholders' interests. 1958. 4 N.Y.L. Forum. 46–58.

Domke, Martin. State trading and the most-favored-nation clause. 1958. 52 Am. J. Int'l. L. 55–68.

Fallon, Perlie F. The mystery of Justice Holmes. 1958. 57 Neb. L.R. 442–7.

Forkosch, Morris D. An analysis and re-evaluation of picketing in labor relations. 1957. 26 Ford. L.R. 391–440.

Freed, Doris Jonas. Aspects of French criminal procedure. 1957. 17 La. L.R. 731–55.

Freed, Doris Jonas. Extraterritorial effect of injunctions in antitrust cases within the Anglo-American orbit. Report. A.B.A., Com. on Eurp'n. law. 4p.

Freed, Doris Jonas. Some light on the Roman law of legal liability. 1954. 6 Baylor L.R. 431–54.

Freed, Doris Jonas. The Soviet judge and the American judge. 1952. 5 Baylor L.R. 18–37.

Friedman, Milton R. Protecting the subtenant's possession by agreement with the prime landlord. 1957. 3 Prac. Lwyr. 59–69.

Gerhart, Eugene C. America's advocate: Robert H. Jackson. Indianapolis, Bobbs-Merrill. 1957. 545p.

Greenfield, Harvey. Double tax on corporation realty sale can be avoided. Mar. 14, 1957, Real Est. Wkly. 1p.

Greenfield, Harvey. An investor's tax return checklist. 1957. Invtr's. Fut. 28.

Greenfield, Harvey. Recent tax rulings under model custodian act. 1957. 138 N.Y.L.J.

Gross, Ernest A. The new united nations. 1957. For. Pol. Assn. Headline ser. no. 125. 62p.

Handler, Milton. Trademarks—assets or liabilities? 1958. 48 T.M. Rptr. 661–76.

Isaacson, William J. Federal pre-emption under the Taft-Hartley act. 1958. 11 Indus. & Lab. Rel. R. 391–404.

Jessup, Philip C. Atoms for power; United States policy in atomic energy development. 13p.

Johnson, Edward F. Legal statesmanship of Arthur Vanderbilt. Reprint, "Daily Record," Baltimore. June 6, 1958. 5p.

Johnson, Frederic A. Baseball, professional sports and the antitrust acts. 1957. 11 Antitr. Bull. 678–701.

Kaplan, H. Eliot. The law of civil service. New York, Bender. 1958. 440p.

Karger, Arthur. Titles of actions and special proceedings; a manual for the guidance of the New York bar. Albany, State Rptr. 1957. 43p.

Katz, Hanna. Extraterritorial effect of injunctions in antitrust cases with respect to Germany (Fed.Rep.). A.B.A., Sec. of int'l. & comp. law. 1957. 3p.

Kelly, Joseph G. Some aspects of leasehold financing. 1957. 33 Notre Dame Law. 34–50.

Looker, Charles. The 1958 modification of the New York rule against perpetuities. 1958. Irving Lwyr's. Letter. 7p.

Morris, Eugene J. 1957 amendments to the residential rent control law. 1957. N.Y.L.J., Jly., nos. 10–14. 10p.

Ness, Theodore. The role of statutory presumptions in determining federal tax liability. 1957. 12 Tax L.R. 321–40, 393–412.

Nims, Harry D. The law's delay: the bar's most urgent problem. 1958. 44 A.B.A.J. 27–30, 90–2.

Parra, Francisco J. Analectas. New York, Las Americas. 1958. 167p.

Peck, David W. Court organization and procedures to meet the needs of modern society. New York, Wm. Nelson Cromwell Fndt'n. 1958. 21p.

Peck, David W. Impartial medical testimony. 1958. 21 F.R.D. 21–7.

Peel, Francis M. S. Second international congress of labor law. 1958. 52 Am. J. Int'l. L. 115–7.

Richland, Bernard. Governor's com. on home rule; survey of home rule case law, 1938–56. New York. 1956. 40p.

Rothschild, V. Henry. Executive compensation and federal securities legislation. 1957. 55 Mich. L.R. 1115–50.

Rudick, Harry J. The estate tax credit for tax on prior transfers. 1957. 13 Tax L.R. 3–25.

Sargoy, Edward A. UCC protection in the United States: the coming into effect of the universal copyright convention. 1958. 33 N.Y.U. L.R. 811–56.

Seasongood, Murray. The A.B.A. in London, 1924 and 1957 compared. 1957. 4 Ohio L. Rptr. 6p.

Seasongood, Murray. Recollections of a founder; address at 50th annual meeting of University Club, Cincinnati. 15 Bull. Hist. & Phil. Soc. of Ohio. 311–15.

Sereni, Angelo P. Diritto internazionale. Vol. 2, pt. 1. Milano, Dott. A. Giuffre. 1958. 770p.

Smith, Henry Cassorte. The federal gift tax. In Appleman, Basic estate planning. Indianapolis, Bobbs-Merrill. 1957. 357–425.

Smith, Reginald Heber. The client's security fund: "a debt of honor owed by the profession." 1958. 44 A.B.A.J. 125–8, 152.

Steinberg, Harris B. The practitioner speaks: witness performance as seen by a trial attorney. 1957. 13 J. Soc. Issues. 30–3.

Timbers, William H. Demands of litigants for government information. 1957. 18 U. of Pitt. L.R. 687–729.

Tinnelly, Joseph T. Part-time legal education; a study of the problems of evening law schools. Brooklyn, Foundation. 1957. 259p.

Wehringer, Cameron K. Trademark abandonment means D.O.A. 1957. 39 J. Pat. Off. 656–88.

Weinstein, Jack B. Cases and materials on evidence. Brooklyn, Foundation. 1957. 880p.

Weinstein, Jack B. The law's attempt to obtain useful testimony. 1957. 13 J. Soc. Issues. 6–11.

Weinstein, Jack B. New York procedures to obtain information in civil litigation. 1957. 32 N.Y.U. L.R. 1066–1121.

Weinstein, Jack B., Gleit, Ernest A. and Kay, Jerome M. Procedures for obtaining information before trial. 1957. 35 Texas L.R. 481–537.

Werne, Benjamin. Industrial relations digest. Chicago, Callaghan. 1958. 1v.

Werne, Benjamin. Law and practice of the labor contract. Chicago, Callaghan. 1957. 2v.

Werne, Benjamin. The national labor relations act and management's objectives in collective bargaining. New York, P.L.I. 1956. 184p.

Williams, Paul W. The practitioner speaks: witness performance as viewed by a U.S. attorney. 1957. 13 J. Soc. Issues. 34–6.

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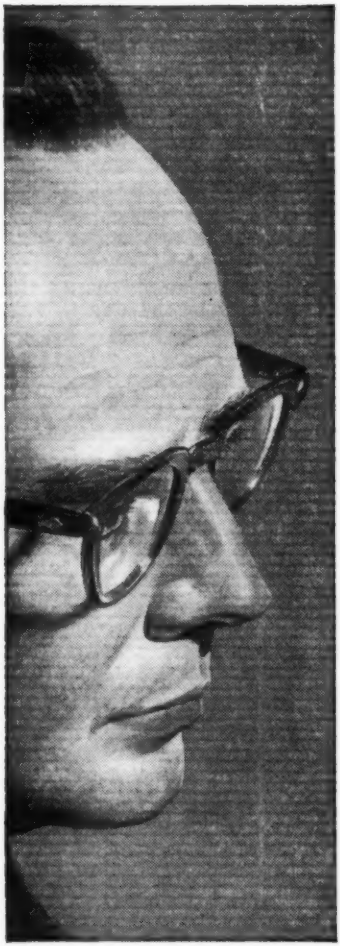

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